IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 7642 of 2004

Between:

M/s. Satyaveer Industries rep by Proprietor Sri K. Satyanarayana Plot NO. 109, Kam Shetty Enclave Ganesh Nagar, Ramanthapur, R.R. District

..... PETITIONER

AND

1 The General Manager, South Central Railway Rail Nilayam- Secunderabad
2 The Divisional-Electrical Engineer (GC) South Central Railway Hyderabad
3 The Chief Electrical Engineer South Central Railway Hyderabad
4 Sr.Divisional Signal & Telecommunications Engineer (M) Signal & Telecom Dept.
South Central Railway Hubli
5 The Superintendent of Police, C.B.I. SPE, Kendriya sadan, Sultan Bazar, Hyderabad
(R5 is impleaded as per court order dt. 8-11-2004 in WPMP 26797 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, order or direction more particularly one in the nature of Writ of

Mandamus declaring the action of the respondents in not refunding the amount of Rs. 4, 66,000/- admittedly due for execution of the Contract work covered by agreement 14/92-93/GC, 29/92-93/GC and H/SC/213/227/AGT 41 dated 16-1-98 as illegal arbitrary and unconstitutional.

Counsel for the Petitioner:MR.K.V.N.BHUPAL

Counsel for the Respondent No.1 to 4: Sri GOURI SHANKAR SANGHI, SC for South Central Railways.

The Court at the stage of admission made the following ORDER:

The petitioner was assigned certain contracts of laying cable, by the South Central Railway, the first respondent. Disputes arose in relation to payment of the amount. The matter was got investigated by the C.B.I. and C.C.No.9 of 1998 was tried, for certain charges, against the two officials of the South Central Railway and the petitioner, in the Court of the Special Judge for C.B.I. cases, Hyderabad. The case ended in acquittal, through Judgment, dated 19.03.2002, of the said Court.

The grievance of the petitioner is that even after its acquittal in the criminal case, respondents 1 to 4 are withholding a sum of Rs.4,66,000/- payable to it, under the agreement, dated 16.01.1998. It seeks direction to respondents 1 to 4 to refund the amount. At one stage, this Court impleaded the Superintendent of Police, C.B.I., the fifth respondent, to ensure that the record in relation to the contract is made available.

Heard the learned counsel for the petitioner, the learned standing counsel for the South Central Railway and the learned standing counsel for C.B.I.

The petitioner claims refund of a sum of Rs.4,66,000/-, which was kept as security deposit for performance of the contracts. A legal notice, dated 18.09.2002, was got issued on behalf of the petitioner. On behalf of the Railways, a reply, dated 13.02.2002, was issued stating that notwithstanding the acquittal in the criminal case, the liability of the parties needs to be decided after verification of the records.

The question as to whether there was any short supply on the part of the

petitioner, as alleged by respondents 1 to 4, cannot be unilaterally asserted and the amount payable to it cannot be withheld. If the respondents 1 to 4 are of the view that there was any defect or default on the part of the petitioner, they are under obligation to point out the same, by issuing a notice. When the same was pointed out, the learned standing counsel for the Railways submits that his clients are handicapped from issuing such a notice, because the record was seized by the C.B.I. On 14.07.2004, this Court passed an order directing the C.B.I. to return the record. The learned standing counsel for C.B.I. submits that the record is in the Court of the Special Judge for C.B.I. cases and though an application was filed on 19.11.2004 for return of the same, no action has been taken thereon.

Inasmuch as the entitlement of the petitioner would depend on the verification of the record, this Court is of the view that a time be fixed, for making the record available for the Railways so that the petitioner be informed of the reasons, in support of the action of withholding the amounts.

Hence, the writ petition is disposed of with the following directions:-

a. The Court of the Special Judge for C.B.I. Cases, Hyderabad shall return the record, submitted to it by the C.B.I., in relation to C.C.No.9 of 1998, within a period of two weeks from the date of receipt of a copy of this order;

b. Within two weeks from the date of taking return of the record, the C.B.I. shall pass on the same to the South Central Railway;

c. Within four weeks from the date of receiving the record from the C.B.I., the South Central Railway shall intimate the petitioner, of the detailed reasons, on account of which they withheld the amount. On receipt of such reasons, it shall be open to the petitioner to prosecute its remedies. In default of communicating the reasons, as directed above, the Railways shall be under obligation to pay the amount of security deposit withheld from the petitioner;

d. There shall be no order as to costs.

09.03.2005

Note:

Office is directed to mark

a copy of this order to the

Court of the Special Judge

for C.B.I. cases, Hyderabad.

(BO)

ksld

To

1 The General Manager, South Central Railway Rail Nilayam-

Secunderabad
2 The Divisional-Electrical Engineer (GC) South Central Railway

Hyderabad
3 The Chief Electrical Engineer South Central Railway Hyderabad
4 Sr.Divisional Signal & Telecommunications Engineer (M) Signal &

Telecom Dept.
South Central Railway Hubli
5 The Superintendent of Police, C.B.I. SPE, Kendriya sadan, Sultan

Bazar, Hyderabad

6 2 CD copies

7 The Court of the Spl. Judge for C.B.I. Cases, Hyderabad.

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